IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA 20-51

Filed: 1 December 2020

Brunswick County, No. 18CRS50599

STATE OF NORTH CAROLINA

v.

BRADLEY CHRISTOPHER VINING, Defendant.

Appeal by Defendant from judgment entered 25 July 2019 by Judge James G. Bell in Brunswick County Superior Court. Heard in the Court of Appeals 21 October 2020.

Attorney General Joshua H. Stein, by Assistant Attorney General Kimberly S. Murrell, for the State.

W. Michael Spivey for Defendant-Appellant.

Inman, Judge.

Bradley Christopher Vining ("Defendant") appeals his conviction of possession with intent to sell and deliver marijuana. For the reasons set forth below, we find no error.

I. FACTUAL AND PROCEDURAL HISTORY

On 30 January 2018, Defendant was pulled over for a traffic violation while driving near Bolivia, in Brunswick County. Officers smelled the odor of marijuana coming from Defendant's vehicle. Defendant told the officers that he had a bag of marijuana in the trunk, used and sold marijuana, and was planning on selling the marijuana in the trunk. A search revealed an additional bag of marijuana and digital scales behind the glove box.

At trial, the two officers involved in the stop testified as to the events of the arrest and gave their opinions that the substance seized was marijuana. The jury found Defendant guilty of possession with intent to sell and deliver marijuana. Defendant appeals.

II. ANALYSIS

On appeal, Defendant's counsel has been unable to identify any issue with sufficient merit to support a meaningful argument for relief and therefore requests that we conduct an independent review of the record for error under *Anders v. California*, 386 U.S. 738, 18 L.E. 2d 493 (1967). Under *Anders*, a defendant may appeal even if counsel has determined the appeal to be "wholly frivolous." *State v. Dobson*, 337 N.C. 464, 467, 446 S.E.2d 14, 16 (1994). Counsel must then submit a brief "referring to anything in the record that might arguably support the appeal," inform the defendant of their right to present arguments on appeal, and provide them with copies of that brief, the trial transcript, and the record on appeal. *Id.* Counsel

in this case advised Defendant of his right to file supplemental briefing and provided him with a copy of the appellant brief, the trial transcript, and the record on appeal. We hold that Defendant's counsel has complied with *Anders*, and we review the record for error.

Defendant has not submitted supplemental briefing to identify any issues in support of his appeal. Counsel notes that Defendant moved to exclude testimony by the officers that the substance seized was marijuana, and the trial court denied his motion. This denial was proper, as officers with proper training and experience may opine that a substance is marijuana. *State v. Johnson*, 225 N.C. App. 440, 455, 737 S.E.2d 442, 451 (2013). The record includes no evidence to support his argument at trial that officers cannot distinguish illegal marijuana from legal hemp. Additional evidence was introduced at trial that the seized substance was marijuana, including Defendant's statements that there was marijuana in the trunk that he intended to sell.

The evidence at trial was sufficient to support Defendant's conviction, for which the State must prove that (1) Defendant possessed marijuana and (2) intended to sell or deliver it. N.C. Gen. Stat. § 90-95(a) (2019); *State v. Ferguson*, 204 N.C. App. 451, 459, 694 S.E.2d 470, 476-77 (2010). Marijuana was found in Defendant's car, along with digital scales, and Defendant stated that the substance was marijuana that he was planning to sell.

After review of the transcript, record, and briefs we cannot identify any other potential issues on appeal, and we find no error warranting reversal of Defendant's conviction or modification of his sentence. We find the appeal to be wholly frivolous.

NO ERROR.

Judges DILLON and YOUNG concur.

Report per Rule 30(e).